

## Message Text

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ACTION EUR-25

INFO OCT-01 ISO-00 SP-03 AID-20 EB-11 NSC-07 RSC-01

CIEP-03 TRSE-00 SS-20 STR-08 OMB-01 CEA-02 CIAE-00

COME-00 FRB-03 INR-11 NSAE-00 XMB-07 OPIC-12 LAB-06

SIL-01 DRC-01 /143 W

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R 241752Z SEP 74

FM AMEMBASSY BONN

TO SECSTATE WASHDC 5256

INFO AMEMBASSY BERN

AMEMBASSY BRUSSELS

AMEMBASSY THE HAGUE

AMEMBASSY LONDON

AMEMBASSY LUXEMBOURG

AMEMBASSY ROME

USMISSION EC BRUSSELS

USMISSION OECD PARIS

UNCLAS SECTION 01 OF 02 BONN 15137

DEPARTMENT PASS TREASURY AND FEDERAL RESERVE

E.O. 11652: N/A

TAGS: EFIN, GW

SUBJECT: HERSTATT

1. SUMMARY. A COMPROMISE SETTLEMENT OF HERSTATT HAS BEEN PROPOSED WHICH WOULD AVOID FORMAL BANKRUPTCY PROCEEDINGS AND START PAYMENTS THIS YEAR. THE SETTLEMENT PROVIDES FOR PAYMENT OF 40 PERCENT OF THE CLAIMS OF GERMAN BANKS AND PUBLIC AUTHORITIES, 55 PERCENT OF THE CLAIMS OF FOREIGN BANKS AND 60 PERCENT OF ALL OTHERS AS OPPOSED TO THE AVERAGE 40 PERCENT WHICH EVERYONE MIGHT BE ABLE TO REALIZE IN FORMAL BANKRUPTCY PROCEEDINGS. THE HIGHER PAYMENTS ARE MADE POSSIBLE BY AGREEMENT FROM GERLING TO MAKE AN UNCLASSIFIED

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ADDITIONAL CONTRIBUTION. END SUMMARY.

2. AT THE REQUEST OF GERLING AND SOME MAJOR GERMAN BANKS, GUENTHER VOGELSANG, FORMER HEAD OF KRUPP INDUSTRIES, HAS WORKED OUT A PROPOSAL FOR THE VOLUNTARY SETTLEMENT OF CLAIMS AGAINST HERSTATT WHICH WOULD INVOLVE AN ADDITIONAL CONTRIBUTION OF ABOUT DM 200 MILLION FROM GERLING, SOME PRE-FINANCING BY GERMAN BANKS AND THE AVOIDANCE OF BANKRUPTCY PROCEEDINGS. THE VOGELSANG PROPOSAL PROVIDES THAT DIFFERENT GROUPS OF CREDITORS WOULD RECEIVE DIFFERENTIATED SETTLEMENTS. NATURAL PERSONS WITH CLAIMS BELOW DM 20,000 WOULD RECEIVE 100 PERCENT OF THEIR CLAIM FROM THE SPECIAL FUND OF THE GERMAN BANKERS ASSOCIATION WHICH IN TURN WOULD BE REIMBURSED FOR 40 PERCENT OF THESE CLAIMS BY THE HERSTATT LIQUIDATOR. NON-BANK, NON-PUBLIC AUTHORITY CREDITORS WOULD RECEIVE 60 PERCENT OF THEIR CLAIMS. FOREIGN BANKS OR GERMAN BRANCHES OF FOREIGN BANKS WOULD RECEIVE 55 PERCENT. GERMAN BANKS WOULD RECEIVE 40 PERCENT. PAYMENTS TO PUBLIC AUTHORITIES AND OTHER NON-BANKS WOULD COMMENCE BEFORE THE END OF 1974 AND PAYMENTS TO BANKS IN THE FIRST QUARTER OF 1975.

3. THE VOGELSANG PROPOSAL IS MADE ON THE BASIS OF A PRELIMINARY ACCOUNTING OF HERSTATT WHICH INDICATES THAT CLAIMS AGAINST THE CLOSED BANK WILL TOTAL ABOUT DM 2.2 BILLION AS AGAINST ASSETS OF ABOUT DM 0.9 BILLION. THE CLAIMS BREAK DOWN ROUGHLY AS FOLLOWS: SMALL DEPOSITORS (BELOW DM 20,000 EACH) - DM 100 MILLION, PUBLIC AUTHORITIES - DM 200 MILLION, OTHER NON-BANK CREDITORS - DM 914 MILLION, FOREIGN BANKS - DM 485 MILLION, GERMAN BANKS - DM 615 MILLION. ON THE BASIS OF THESE PRELIMINARY FIGURES ALL CREDITORS COULD EXPECT A SETTLEMENT OF APPROXIMATELY 41 PERCENT IF NORMAL BANKRUPTCY PROCEEDINGS WOULD RUN THEIR COURSE. THE BETTER QUOTAS OUTLINED IN PARA 2 ABOVE ARE POSSIBLE BECAUSE GERLING HAS AGREED TO MAKE UP THE DIFFERENCE IF THE VOGELSANG PROPOSAL IS ACCEPTED BY ALL CREDITORS. AN ADDITIONAL INDUCEMENT IS PROVIDED BY THE APPARENT AGREEMENT BY A GERMAN BANKING CONSORTIUM TO PRE-FINANCE THE SETTLEMENT SO THAT PAYMENTS TO CREDITORS CAN

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COMMENCE VERY SOON WHILE BANKRUPTCY PROCEEDINGS MIGHT TAKE A NUMBER OF YEARS TO COMPLETE. VOGELSANG HAS BEEN IN TOUCH WITH THE VARIOUS CREDITOR GROUPS AND APPARENTLY IS CONFIDENT THAT HIS PROPOSAL WILL BE ACCEPTED BY THE 95 PERCENT REQUIRED TO AVOID BANKRUPTCY PROCEEDINGS. THIS IS NOT YET CERTAIN, HOWEVER. THE CITY OF COLOGNE, ONE OF THE MAJOR CREDITORS, ALREADY HAS EXPRESSED DISATISFACTION WITH THE PROPOSAL. FINANCE

MINISTER APEL AND ECONOMICS MINISTER FRIDERICH, ON  
THE OTHER HAND HAVE WELCOMED IT.

4. ONE OF THE KEY ELEMENTS OF THE PROPOSAL AS FAR AS  
AMERICAN BANKS ARE CONCERNED IS ITS TREATMENT OF ACTIONS  
FILED IN THE US AGAINST HERSTATT ASSETS THERE. THIS  
IS NOT ENTIRELY CLEAR FROM THE PUBLIC ANNOUNCEMENT, BUT  
APPEARS TO BE ALONG THE FOLLOWING LINES: (A) FOREIGN  
AND GERMAN BANKS HAVING STARTED BANKRUPTCY ACTIONS

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AGAINST HERSTATT IN THE US MUST WITHDRAW THESE AND  
INSTEAD WILL RECEIVE THE 55 PERCENT COMPENSATION OUT  
OF THE PROPOSED SETTLEMENT; (B) GERMAN BANKS HAVING

INITIATED ATTACHMENT PROCEDURES IN THE US WILL PARTICIPATE IN THE PROPOSED SETTLEMENT AND IN RETURN HAVE TO TURN OVER TO THE LIQUIDATOR 75 PERCENT OF WHATEVER THEY REALIZE ON THE BASIS OF THESE ATTACHMENTS; (C) FOREIGN BANKS, INCLUDING THEIR GERMAN BRANCHES, CAN PROCEED WITH THE ATTACHMENT PROCEDURES WHICH WILL BE DEALT WITH ACCORDING TO THE APPLICABLE FOREIGN LAW.

5. IN ORDER TO FINANCE HIS ADDITIONAL CONTRIBUTION TO THE HERSTATT LIQUIDATION, GERLING IS SELLING A 50 PERCENT SHARE IN HIS INSURANCE EMPIRE TO A CONSORTIUM OF GERMAN UNCLASSIFIED

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BANKS HEADED BY THE WESTDEUTSCHE LANDESBANK AND THE DEUTSCHE BANK. IT IS ESTIMATED THAT GERLING'S ADDITIONAL CONTRIBUTION WILL BE ABOUT DM 200 MILLION. BUT IT IS AGREED THAT IT WILL BE AT LEAST DM 150 MILLION AND THAT IF THIS AMOUNT IS NOT NEEDED TO MAKE THE PERCENTAGE SETTLEMENTS OUTLINED IN PARA 2 ABOVE, THE REMAINDER WILL BE USED TO BRING UP THE PERCENTAGE SETTLEMENT OF THE PUBLIC AUTHORITIES AND DOMESTIC BANKS UP TO 55 PERCENT. SHOULD AFTER THAT FURTHER FUNDS REMAIN AVAILABLE, THEY WILL BE APPORTIONED EQUALLY AMONG ALL CREDITORS. HILLENBRAND

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